# FOR MYSORE STATE

Passed

27-6,000—4-1-52.

Home (1953) Department.

MS SERIES.

MS
G.O. NO. 1624

Dated 16-5-1953

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[Despatch Abstract.]

To

The Secretary
Home Government of Madras
M A D R A S

34190
13.3.50

Poovappa Poojari son of Akkamma Hegsu residing in Goltbamajalu village Mangalore Taluk .. Petitioner

The above named petitioner begs to submit the following facts for your kind consideration, enquiry and immediate action---

1. That This Petitioner's mother was run over by a Taxi on 26-7-1947 at Baddakatta near Bantwal Town and within a few hours after the accident, she died in the L.F.Hospital, Bantwal on the same day. At the time of the accident she was wearing gold ornaments worth about Rs. 300/- fully described herein below and the Police who held the inquest over the dead body of this Petitioner's mother seized all the gold ornaments from the dead body under a yadast. The description of the ornaments seized from the dead body are given even in the inquest report and other documents prepared at the time of the inquest.

2. That this Petitioner being the eldest son of the deceased and the senior most member of her branch is entitled to claim the gold ornaments from the concerned authorities as the deceased and this petitioner are governed by Aliyasanthana Law of inheritance.

3. That at the time of the inquest this petitioner was present and it was he who removed the ornaments from the dead body as ordered by the Police.

4. That when this petitioner requested the Police to return the gold ornaments they told him that the ornaments would not be returned till the disposal of criminal

case in E.I. No. 114/47 of Bantwal Police Station registered against the driver of the Taxi. They also assured this petitioner that the ornaments could be sent to the Additional first Class Magistrate's Court south Kanara along with the F.I.R. charge Sheet and the report under Section 523 Cr.P.C. The Criminal case against the Driver Doddu was disposed of long ago in C.C.No. 325/47 on the file of the Additional First Class Magistrate of South Kanara.

5. That after the disposal of the case, he filed a petition before the Additional First Class Magistrate of South Kanara in July 1948 praying for the return of the gold jewels removed from the dead body of this Petitioner's mother as he is the legal heir best entitled to receive the ornaments.

6. That as no entry relating to the jewels were found in the property register maintained by the court and there was also no record to show that the jewels had been sent to the Court, the petition submitted by this Petitioner before the Court was sent to the S.H.O. of Bantwal Police Station for enquiry and report. Though this Petitioner waited for long no orders were received by this petitioner.

7. That after the petition was received by the Station House Officer of Bantwal Police Station in July 1948, this Petitioner went to the Station House Officer Bantwal Police Station several times, as he was assured by the Station House Officer that necessary information would be given to this Petitioner, to trace out the ornaments.

8. That as misfortune would have it, the petitioner was not given any information as to where the jewels are about the whereabouts of the gold ornaments so far. This Petitioner also understands, that the ornaments seized from the dead body of his mother were not

sent by the Police either to the Additional First Class Magistrate's Court, South Kanara, or to the Sub Magistrate's Court, Bantwal.

9. That this Petitioner approached the District Magistrate of South Kanara with a fervent prayer to hold necessary enquiry and order to the return of jewels to this petitioner. But this petitioner begs to submit that the jewels have not yet been returned nor any reply as to the whereabouts of the jewels also has not yet been ~~received~~. traced out.

10. That this Petitioner is a poor man and as ill luck would have it for him, his mother became a victim of unhappy accident and the jewels seized from her dead body was worth about Rs. 300/-.

11. It is therefore prayed that the Secretary, Home Government of Madras may be pleased to take necessary action against the concerned authorites and order the immediate return of the jewels to this poor petitioner, in the interest of justice or else this petitioner will be put to great loss and hardships.

DESCRIPTION OF THE GOLD ORNAMENTS

1. ೨-೨ ಗ್ರಾಂ ತೂಕದ ಚಿನ್ನದ ಕಿವಿ ಹೂಗಳು ✓

2. ಮೂಗಿನ ತೂಕದ ಚಿನ್ನದ ಕಡ್ಡಿ.

3. ೩ ಗ್ರಾಂ ತೂಕದ ಚಿನ್ನದ ಉಂಗುರ. ✓

4. ತೂಕದ ಚಿನ್ನದ ಬಳೆಗಳು

(1) — 5

5. [illegible]

6. [illegible]

7. [illegible] ✓

8. [illegible] ✓

negative:
M. G.-H. SD

× [illegible]
Petitioner.

Petitioner's

# VAKALAT

**In the Court of the** Secretary Home Government Madras

Pt. No. _____ 1950

Poovappa Poojari Petitioner

I/We Poovappa Poojari son of Akkamma Hongsu

residing in Colthamajalu village Mangalore Taluk

now come to Mangalore Town

do hereby appoint and retain Mr. K. V. Poojari Advocate Mangalore.

Vakil/Advocate to appear for me/us in the above matter and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application for execution of any [illegible] my/our Vakil/Advocate to appear in all misce[illegible] till all decrees or orders are fully satisfied or [illegible] and draw any moneys that might be payable to [illegible]

In witne[illegible] this 6 day of March 1950.

Date. 10-3-1950

Accepted
K. V. Pujari
Advocate

Vakil/Advocate.

x ಮೇಲಹೆಸರುಗಾರರಿಂದ ಹೆಬ್ಬೆಟ್ಟು

The address for service of the said Vakil/Advocate is
Sri K. V. Poojari
Advocate
Mangalore.

Signed before me by the executant this 9th day of March 1950 the contents hereof having been read over to the executant in Kanada and admitted to be correct.

H. Pai
H. C. Mangalore

In the Court of the Secretary Home Govt Madras.

pt. No. _____ 1952.

Vakalat produced on behalf of Petr.

on 10.3.1952.

Vakil/Advocate.

Hind Art Press, Ltd., Mangalore, P. I. C. S. K.77-5-47-1500.

Home Dept-

Endt. no. 34190 Police II/50-1 Dated. 20.3.50

Referred to the Inspector-General of Police for remarks.

Pls
17.3.50

17/3/50

CW 18/3/50.

To

The Inspector-general of Police Madras 4 with a copy of pp 1-6 below.

A or p 1 above

note: The petitioner Poonappapoojari alleged that the Police have seized gold ornaments from the dead body of his mother, Akkamma Hegde who was run over by a Taxi. The Police did not return the gold ornaments nor did they produce them in the course. I. G's remarks may be called for. The draft Endorsement above is submitted for approval.

Pls
17.3.50

17/3/50.

CW 18/3/50.

pa a 3 & 4 or pp 1-2 above

pa a 5, p 2 above

Pl. M 6/6/50

Please issue 18/3/50

Draft 23/3

TJ 80936

13/6/50

From
Sri.J. Devasahayam, B.A., I.P.,
Inspector General of Police,
Madras.4.

To
The Secretary to the
Government of Madras,
Home Department.

Foc.No.589/HB/50

Dated 9th June, 1950.

Sir,

Sub:- South Kanara District - Allegations against Police-petition from Poovappa Pujari of Golthamajalu village - Mangalore Taluk - Report submitted.

Ref:- Endorsement No.34190 Police 11/50-1, Home, dated 20-3-50.

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I enclose for the information of the Government a copy of report No.5530/G/50, dated 20-5-50 from the District Superintendent of Police, South Kanara on the above subject.

2. The allegations against the police are reported to be not true.

for Inspr.-Genl. of Police.

rs/11/6

12.6.

Ref.C.No.5520/G/50.

Retransmitted to the Inspector-General of Police, Madras through the Dy.Inspr.-Genl. of Police, Western Range.

2. A revised report dealing with the facts contained in the petition para by para as required in Chief Office circular memo. F.C.C. No. 390-A/[illegible] dated 17-6-49 is sent herewith.

Para 1:-The petitioner's mother Akkamma Hengsu was run over by a taxi on 27-7-47 at 3.15 p.m. near Makribettu in Bantwal Cusba. The Bantwal Police registered a case under section 304 (A) I.P.C. against the driver of the taxi (Bantwal station crime No. 114 /47). The petitioner's mother was admitted as an inpatient in the L.F.Hospital Bantwal where she died at 5 p.m. on 27-7-47 (same day). An inquest was held by the Sub Inspector on the same day. The following ornaments which were found on the person of the deceased were seized by the S.I. under a Mahazar.

1. A pair of gold vola.
2. A pair of gold Kaddi.
3. A pair of gold bugudi.
4. One gold mookuthi.
5. One gold misri in a double silver ring on the neck.
6. One gold urukku.
7. A silver ear picker and a key in a thread.
8. A silver anklet.

Para 2:- The petitioner has to prove his claims to receive the properties seized from the person of the deceased. The Police cannot say that he is the only person entitled to get the properties.

Para 3:-The petitioner's name does not find a place anywhere in the inquest report or in the Case Diary file concerning the case.

Para 4:- The properties of the deceased seized by the Police was sent to the court of the Addl. I Class Magistrate, South Kanara and the receipt of the properties was acknowledged by the then Head Clerk of the court, Sri U. Ramappa on the passport of Police Constables 210 and 413 of Bantwal station. The passport together with the statement of P.C. 210 was sent to the Dt. Magistrate, South Kanara. The acknowledged copy of 523 report was not received at the Police Station, even though the Head Clerk of the court promised to send it direct to the station by post. The case against the driver of the taxi was discharged u/s 253 (1) Cr.P.C. by the Addl. First Class Magistrate, Mangalore.

Para 5:- No information available.

Para 6:- The acknowledgement of the Head Clerk on the passport of Police Constables of Bantwal station prove that the properties were received at the court but was not acknowledged in the 523 report, though the properties were actually received.

Para 7:- The petitioner was directed to approach the Addl. Ist Class Magistrate for the return of the ornaments as the properties had long ago been sent to the court.

Para 8:- It is really a misfortune that the petitioner should have suffered on account of the ornaments being not accounted for by the court.

Para 9:- The petition received by the Dt. Magistrate, South Kanara was enquired into and a detailed report sent to him last year.

Para 10:-calls for no remarks.

3. The Public Prosecutor, Mangalore who was consulted in the matter has already given his opinion that there is prima facie case against Sri U. Ramappa for an offence u/s 409 I.P.C. and that this is a fit case for prosecution. The allegations that the Police did not send the ornaments to the court of the Addl. Ist Class Magistrate are unfounded. The properties had been sent to the court and the receipt

-2-T.O.

acknowledged by the Head Clerk, who obviously misappropriated the same. It is a misfortune that the Police have to share the sins committed by the Head Clerk of the court.

Mangalore,
19-5-50.

Dt.Supdt.of Police,
S.Kanara.

Home(Poll.) Dept

~~Pages 9 to 12 above are submitted for perusal~~ ~~of Govt. Police Headquarters that the allegations~~ ~~made by the petitioner are reported to be~~ ~~untrue. No further action seems called~~ ~~for. May be dropped.~~

19 and

2/8/7

13

Home dept

Memo No. 34190C6 II/5027 7.7.50.

Police - South Kanara dt. -
Allegation of misappropriation
of jewels from a dead body

Ref:- Petition from Poorappan Pogari
of 9.3.1950.

From the D.G. of Police Roc 589 HB/50
of 12.6.50

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Referred to the D.M.,
South Kanara for remarks which
should be submitted not later than
1-8-50

Sec
7.7.50

To the D.M. South Kanara
(with pp Ref in orgl back
and copy of 9-12 Ck to be retd. with reply)

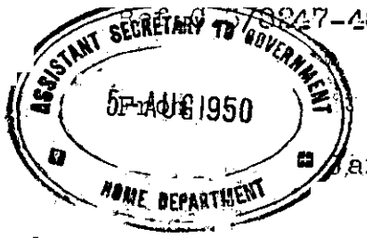
6/7/50.

6.7.50.

15

Ref.C.3/8247-48.

South Kanara Dt.Magte's.Office,
Mangalore, dated: 31st July 195(




From

Janab Syed Ahmed, B. Sc.(Hons.),
District Magistrate of South Kanara.

To

The Secretary to Government,
Home Department, Madras.

109909

S i r,

POLICE - South Kanara District - Allegation of misappropriation of jewels from a dead body - Remarks.

Reference: Government Memo No.34190 Courts II/50-2, Home Department, dated 7-7-1950.

*****

Akkamma Hengsu, mother of the petitioner was run over by a taxi and killed at Bantwal on 27-7-1947. An inquest was held by the Station House Officer, Bantwal and the following items of ornaments found on the person of the deceased were seized by the Sub-Inspector under a Mahazar:

1. A pair of gold vola.
2. A pair of gold Kaddi.
3. A pair of gold bugudi.
4. One gold mukuthi.
5. One gold Misri in a double silvering on the neck.
6. One gold uruku.
7. One silver ear-picker and a key in a thread.
8. A silver anklet.

A case was registered under Section 304(A) IPC and charge sheet filed in the Court of Addl. I Class Magistrate, South Kanara, Mangalore. The properties were sent to the Court by the S.H.O. Bantwal through the Police Constables Nos. 210 and 413 of Bantwal Station together with the duplicate copies of 525 report. The contention of the Police is that Sri U.Ramappa, the then Head Clerk of Additional I Class Magis-trate's Court, acknowledged receipt of the properties on the Passport of the Police Constables on 1-8-1947 and promised to send the duplicate copy of the 525 report with the acknowledgment of the Magistrate, but never sent it inspite of reminders.

2. The records of C.C.No. 325/47 on the Addl.I Class Magis-trate, South Kanara show that the ornaments in question were not marked as M.Os. in the case as they did not form the subject matter of the case, and there was no record to show that these properties were received in the Court. There were no entries in the Property Register also. It was only when the parties put in a petition before the Court for their return that these things came to light.

3. Sri U. Ramappa, the clerk concerned has since retired. A charge was framed against him by the Addl. I Class Magistrate, South Kanara, Sri U. Ramappa has merely denied all knowledge about the ornaments. Although there is an endorsement in the Passport in his own hand-writing: "Received properties and F.I. 114/47" with his signature, he explains that in the midst of heavy work he must have signed the passport at the request of the Police without actually receiving the properties. From the circumstances of the case I was satisfied that there was a case of misappropria-tion. I requested the Dt.Superintendent of Police to investigate further with a view to prosecute Sri U.Ramappa, under Section 409 IPC and the petitioner was informed of this fact in my memo Ref. C.3/8247-48 dated 20-3-1950.

4. There are other charges pending against Sri U.Ramappa. I enclose a copy of letter Ref.C.No.144/48 dated 16-4-49 from the Addl.I Class Magistrate, South Kanara for your information. I hav

P.T.O.

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directed that all the charges pending against the retired clerk should be investigated and complaint filed.

5. There is no origin in the allegation that the ornaments were misappropriated by the Police. But the circumstances under which the properties and the 523 report were handed over to the clerk and not the Magistrate and the responsibility for the loss of jewels can be fixed only after the disposal of the case against the clerk.

6. I enclose the petition dated 9-5-1950 from Poovappa Pujary received with the Government Memo cited above. pp 1-6 ants

Yours faithful

Enclosures: Two.
'ES/1-8
Compd.

Dt. Magistrate. 2.8.50

Copy to the Secretary to the Board of Revenue, Land Revenue, Madras.

16

17

Copy of letter Ref.C.No.144/48 dated 16-4-1949 from Mr. S.Joshua, B.A., Addl.I Cl.Magistrate, South Kanara, to the District Magistrate, South Kanara.

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Sub: OFFICE PROCEDURE- Addl.I Class Magistrate's Court - South Kanara - Irregularities committed by retired clerk Sri U. Ramappa - Brought to notice - Instructions solicited.

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S/

While Sri U. Ramappa, who retired from service on 17-4-1948, was employed as Bench Clerk of this Court, the following irregula--rities committed by him have been noticed. Though he was called upon to explain and reconcile these discrepancies many a time, he has failed to do so inspite of repeated reminders both orally and in writing. With reference to a memo served on him by registered post in this office Ref.C.No.144/48 dated 8-12-1948 he replied to say that he would attend office during the Christmas holidays and set right the defects pointed out; but he did not choose to do sp though he was sent for subsequently through the office peons. I solicit instructions as to what action may be taken against the -- retired clerk for his wilful dereliction of duties.

2. The following are the irregularities so far detected:

(a) C.C. 525/47: In Bantwal F.I. 114/47 under Section 504-A IPC certain ornaments seized from the person of the deceased are alleged to have been produced before this court, Neither do they find place in the property register nor in the list of property sent to Court by the Police. The matter was enquired into by the Police with reference to petitions filed by the party before the Dt.Magistrate, D.S.P. and this Court and it has been reported that the jewels were acknow--ledged by the Court clerk in the Police Passport (Vide Dt. Magistrate N.Ref.C.3/8247/48).

(b) C.C. 154/48: The sale proceeds of the seizures (rice etc.) in Kasaragod A.R.O's.O.R. 47/48 returnable to the accused which are alleged to have been sent to Court are not forthcoming. There is no entry in Criminal Register No 15 to vouch for its receipt. The accused in this case too has moved the Collector in the matter.

(c) P.R. 62/1947: A sum of Rs 180-5-4 with two other items of Rs 1-9-8 and Rs 24-8-0 representing the sale proceeds of confiscated articles etc. is shown to have been remitted to the Treasury under chalan No.1428 dated 28-12-47 No such challan is forthcoming . This was detected when the refund voucher issued to the party was returned by the Imper Bank with an objection of having not credited the amount on that day Attempts made to verify whether this amount was credited in Kasaragod Sub-Treasury were in vain. The refund voucher is still pending disposal.

(d) P.R. 38/1947: Against this P.R. a jewel has been acknowledg --ed. As the C.C.No. or the F.I.of the Police Station from which it was received has not been noted, it cannot be made out to which case it relates. As such it is pending disposal.

(e) P.R. 34/1947: A trunk with 37 seers of rice has been entered against this P.R. having been re--ceived in Court. It is not known what has become of the ric This was remarked in the notes of inspection and the Dt. Magistrate in his Ref.C.3/5029-48 dated 25-1-1949 has called for a further report in the matter.

Sd/ S. Joshua,
16-4-1949
Addl. I Cl.Magistrate.

/True copy/

[illegible] 2.8.50

19

Home dept

Urgent

Memo No. 34190 Cls II /50.3 dated 6.9.50

Police - South Kanara Dt. —

Allegations of misappropriation of jewels from a dead body

Ref:- From the D.M. South Kanara C3 8247-48 of 31.7.50

—

The D.M. South Kanara is requested to take early steps to prosecute Sri M. Ramappa and to send a report to Govt

Sd/ 31.8.50 1.9.50.

Sd/ 28/9

Rec'd 13/11

Sd/ 20.7.50.

the D M., South Kanara.

R.D. 27-10-50.

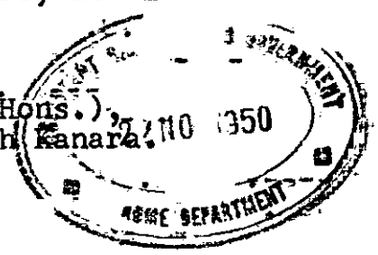
Ref.C3. 8960/50.

SOUTH KANARA DISTRICT MAGISTRATE,
Mangalore, 16- 11- 1950.

21

From

Janab Syed Ahmed, B.Sc.,(Hons.),
District Magistrate, South Kanara.




To

The Secretary to Government,
Home Department, Madras.

Sir.

POLICE :- South Kanara District - Allegations of misappropriation of jewels from a dead body - prosecution of Sri.U.Ramappa, Ex-head clerk, Additional First Class Magistrate's Court - Report submitted.

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173551
2214

REF:- Government Memo.No.34191 Courts II/50-3 Home Department dated 6-9-1950.

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I have sent a formal complaint to the Police regarding the misappropriation of jewels concerned in C.C.No.325/47 on the file of Additional First Class Magistrate, South Kanara and the sale proceeds of seizures in C.C. 202/47 by Sri.U.Ramappa, late head clerk of Additional First Class Magistrate's court, South Kanara. The Police have registered a case under Sec. 409 I.P.C. and the same is under investigation. The District Superintendent of Police, South Kanara has informed me that the Inspector of Police, Mangalore has been directed to complete the investigation and lay a charge sheet at an early date.

2/ A copy of my complaint to the police Ref.C3. 8247/48 dated 5-9-1950 is enclosed for favour of information.

Yours faithfully,

For Dt. Magistrate.

kvr/19-11-1950.

Copy of Rec.C3. 8247/48 dated 5-9-1950 of the District Magistrate, South Kanara to the District Supdt. of Police,S.Kanara,Mangalore.

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CRIMINAL JUSTICE -Complaint under Sec. 409 I.P.C. against Sri. U.Ramappa Ex-Head clerk of the Court of the A.F.C.M. S.Kanara.

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1. Sri.U.Ramappa was the Head Clerk and Bench clerk of the Court of the Addl. I Class Magistrate, South Kanara, from 7-5-'45 to 16-4-1948. The following instances of irregularities committed by him while in Office have come to light, which prima-facie disclose an offence of Criminal Misappropriation and breach of trust.

2/- In Bantwal Cr.No.114/47 registered under Sec. 304-A I.P.C., a pair of gold voles, a pair gold kaddi, a pair of gold bugudi, a gold muguthi, a gold misri in a double silver ring, a gold urukku, a silver ear-pick and key and a silver anklet, seized by the Police at the time of inquest were sent to the Court of A.F.C.M the receipt of which was acknowledged by Sri.U.Ramappa on 1-8-1947 on the pass-port of P.Cs 210 and 413. The case was disposed of on 19-12-1947 in C.C.325/47 by the then Addl. First Class Magistrate Sri.H.Sundara Rao. Subsequently, the deceased's son applied for the return of the above seizures, when, it was revealed that they had not been either made over to the Additional First Class Magistrate or accounted for in the property register by Sri.U. [redacted]. The clerk has no explanation to offer excepting one of a denial.

P.T.O.

3/- In C.C.No.202/47 on the file of the same court, a sum of Rs.204-13-4 representing the value of seizures relating to F.I - Nos.11 and 12/47 ~~Bra~~ X. Branch C.I.D., Mangalore, were received under dated 8-5-1947 as per P.R.62/47 and duly accounted for in the property register as per entries made by Sri.U.Ramappa in his own ~~head~~ hand. This item, along with other items concerned in P.R.Nos. 52 to 61/1947, were shown in the property register as having been remitted to the Kasaragod Sub Treasury on 28-12-1947 as per chalan No.1428, though the A.F.C.M has not initialled the items in token of their having been remitted to the Treasury. The relevant entries in the property register are all in his hand.

4/ C.C. 202/47 ended in a conviction by the then A.F.C.M. Sri. H SundaraRao, but was acquitted in appeal. Thereafter the party applied for a refund of the seizures concerning this case. When the refund voucher was presented by the party before the Treasury it was revealed that the amount in question had not been actually remitted to the Kasaragod Treasury ~~under~~- under the date and chalan aforesaid. Attempts made to trace this amount in Kasaragod Sub Treasury were futile. The chalan number noted in the property register regarding the ~~remit~~ remittance of the amount seems to be fictitious.

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5/ Please investigate into the case, and if sufficient evidence is forth-coming for all or any of them charge-sheet the accused before a competent court of law.'

/True copy/

kvr/19-11-50.

20/11

24/1/51

Home dept.

Memo No. 34190 Pol III/50-57 dt. 18.1.51

Police - South Kanara dt -
Allegations of misappropriation of
jewels from a dead body

Ref: from the District Magistrate, South
Kanara No C3 8960/50 dt 16.11.50.

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The D.M., South Kanara is
requested to expedite this further
report in the matter

15.1.51

To the D.M., South Kanara.

Pef.C3.8960-50.

S.Kanara Dt.Magistrate's Office,
Mangalore dated 19.2.51.

GOVERNMENT SECRETARIAT
22 FEB 1951
HOME DEPT

35514

From

SRI A.R.RAJARATNAM, B.A.,
Dt.Magistrate of South Kanara.

To

The Secretary to Government,
Home Department,
M A D R A S. 9.

Sir,

POLICE: South Kanara district--allegations of misappropriation of jewels from a dead body--further report.

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Ref: Government Memo No.34190 Prisons III/50-57 Home department dated 18.1.51.

--

A case under section 409 IPC was registered by the Police and after investigation a charge sheet under section 420 IPC was filed in the court of Sub Divisional Magistrate Mangalore on 31.1.1951.

Yours faithfully,

For Dt.Magistrate.

IC/19.2.51.

Ref.c3.8960/50.

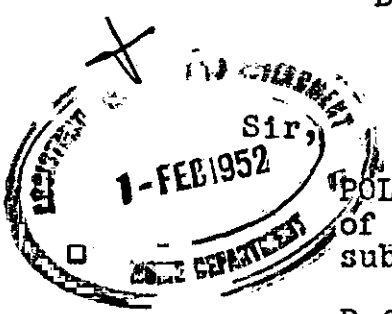
S. K. Dt. Magistrate's Office,
Mangalore, dated.11.1.1952.

From

Sri. A. R. Rajaratnam, B. A.,
Dt. Magistrate, South Kanara,
Mangalore.

To

The Secretary to Government,
Home Department, Fort St
George, Madras.9.



Sir,

POLICE: South Kanara district - Allegation of misappropriation of jewels from a deadbody - result of criminal case - report submitted.

Ref: Govt. Memo No.34190-pr.III/50-8, Home Department, dated.18.10.51.

...

18318

C.C.No.43/51 on the file of Sub Divisional Magistrate, Puttur, against Sri.U.Ramappa formerly Head clerk, of Addl.I.Cl.Magistrate' Court, S.K., regarding Criminal breach of trust in respect of the j found on the dead body concerned in Crime No.114/47 of Bantwal Station ended in acquittal of the accused. I enclose a copy of calendar and judgment in C.C.No.43/51 for information. The Magist has given the benefit of doubt to the accused on account of the fac that the police did not obtain a duplicate copy of the list of pro= perties sent up under Sec.523 Cr.P.C. duly signed by the Addl.I.C. Magistrate.

2. I also enclose a copy of the calendar and judgment in C.C. No.46/51 on the file of the Sub Divl.Magistrate Puttur, concerning same accused for committing criminal ~~breach~~ breach of trust in res of a sum of Rs.285.2.2. The accused was convicted and sentenced to imprisonment till the rising of the court and to pay a fine of Rs. or in default to undergo S.I. for four months. A compensation of Rs.180.5.4. was sanctioned in this connection in G.O.Ms.No.739 Hom dated.20.2.51 as amended in Govt. Memo No.44709 Courts I/1951-1. dated.13.3.51.

Yours faithfully,

for Dt.Magistrate.

v.15.1.

Copy to the 'A' section with enclosures.

[2 drafts.]

Draft

Home Department

29

Memo. No. 34190 Pr III/50-7 dated 5-5-52

Police - South Kanara Dt. - Allegation of misappropriation of jewels from a dead body.

Ref: Correspondence ending with the letter of the I.G. of Police, Roc. 589/HB/50, dated 12-6-1950.

A copy of the judgment in C.C.No.43/51 on the file of the Sub Divisional Magistrate, Puttur, South Kanara Dt. is communicated to the I.G. of Police. Under sec. 523 Cr.P.C., the seizure by any police officer of the property found under circumstances which create suspicion of the commission of any offence shall be forthwith reported to a Magistrate. P.S. O.665 prescribes form No.91 for sending to the Magistrate property which comes into the hands of the police otherwise than in a formal search of premises. The D.S.P. S.Kanara has stated that the acknowledged copies of the report under sec.523 Cr.P.C. were not received at the police station even though the then headclerk of the Addl. First Class Magistrate's Court, S.Kanara promised to send it direct to the Police Station by post. The police were satisfied with the acknowledgment in passport viz. "received properties and F.I.R. 114/47". The fault of the Police in not having obtained a specific acknowledgment from the ex-head clerk or from the Magistrate has given a handle to the accused to plead non-receipt of the property and escape from the clutches of law. In the circumstances, the I.G. of Police is requested to report not later than 1.6.52 whether the responsibility for the loss of the jewels cannot be fixed on the police officials concerned, and whether the value of the property cannot be recovered from them.

To the I.G. of Police,
(with a copy of the judgment at flag (A) below)

2.5.52.

10.5.52

[R.A. 26.5.52]

30

Memo. No. 34190 Pr III/50-8 dated : 5-5-52

Courts-Criminal -- C.C.No.43/51 on the file of the S.D.M., ~~Puttur~~ South Kanara Dt. - Acquittal of the accused Sri U. Ramappa - Withholding or reduction of.

From the D.M., S.Kanara C3.8960/50, dated. 11-1-52

-- --

Attention of the D.M., S. Kanara is invited to the correspondence resting with his letter cited. Though the Sub Divisional Magistrate, Puttur has given the benefit of the doubt to the accused Sri U.Ramappa, the ex-headclerk of the Court of the Addl. First Class Magistrate, South Kanara, in C.C.No.43 of 51, the conduct of the ex-headclerk does not seem to be above suspicion. Sri Ramappa was also sentenced by the same Sub Divisional Magistrate to imprisonment till the rising of the Court and to pay a fine of Rs.400/- or in default to undergo simple imprisonment for 4 months for offences of criminal breach of trust in respect of ~~certain case properties~~ a sum of Rs. 285-2-2 in C.C.No.46 of 51 on his file. The D.M. S.Kanara is therefore requested to initiate action for withholding or reducing the pension of the ex. headclerk Sri U.Ramappa and to submit the case to Govt. for orders.

To the D.M. South Kanara
Copy to the Rev. Dept.

10.5.52

[R. D. 15-6-52]

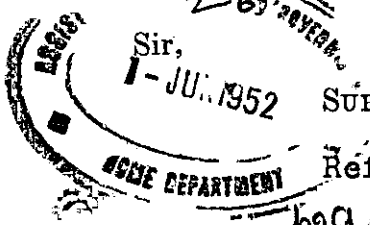
FROM

SRI T. G. SANJEVI, M.A., I.P.,
Inspector-General of Police,
MADRAS-4.

To JOINT
THE SECRETARY TO THE
GOVERNMENT OF MADRAS,
HOME DEPARTMENT.

97416 pne
2-69 Govern.

Foc. No. 893/Crime/52....., dated 31st May 1952.



Sir,

SUB: Police - South Kanara district - Allegation of misappropriation of jewels from a dead-body.

Ref: Memorandum No.34190.Pr.III/50-7, Home, dated 5-5-52.

---

I enclose for the information of the Government copy of report C.No.105/Camp/52 dated 16-5-52 from the District Superintendent of Police, South Kanara and endorsement C.No.1619/Genl/52 dated 20-5-52 from the Deputy Inspector-General of Police, Western Range thereon in the above matter.

p 33 infra

2. I agree with the District Superintendent of Police and the Deputy Inspector-General of Police that the constables should not be made to pay for the loss of the jewels.

x on p 33 infra

for Inspr.-Genl. of Police.

nrr/30.5.

Memorandum C.No.105/Camp/52 dated 16-5-52 from the District Superintendent of Police, South Kanara to the Inspector-General of Police, Madras.

---

Sub: POLICE - South Kanara district - Allegation of misappropriation of jewels from a dead body.

Ref: Government Memorandum No.34190-Pr.III/50-7, Home, dated 5-5-1952 communicated with Chief Office endorsement Rc.No.893-Crime-52, dated 13-5-1952.

p 29 onde not in file

p 104 of Bk 137

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While the failure of the police to have obtained a receipt in detail for the property in form No.91 certainly enabled the accused to plead non-receipt of the property and thus escape conviction, and the police officer(s) responsible is thus liable for punishment for not observing the correct procedure it would not, in my opinion, and for reasons given below, be equitable to recover the value of the property misappropriated by the accused from the police officer(s) concerned.

2. In the first place, a perusal of the judgment will show that the version of the two constables (P.Ws. 1 & 6) that they did in fact handover the property to the accused, has not been rejected either explicitly or implicitly by the court. All that the Court has said is that their testimony after a lapse of three years cannot "command much evidence" by which, presumably is meant that it was insufficient and further corroboration was required.

3. Secondly there is an admitted acknowledgment by the accused in the passport of the constables of certain properties. If the Court was not satisfied that the properties related to Cr.No.114/47, it was open to it to at least ascertain in what other connection property was sent to the Magistrate and acknowledged by the accused on the same passport, the same day.

4. The accused has merely been given the benefit of the doubt in this case. There is no expression by the Court that he was innocent of the charge. Indeed the reference in para 9 to the accused's escaping the clutches of the law imply his moral guilt. It is to be pointed out that this was not the only case in which the accused stood charged. For Criminal Breach of Trust in respect of Rs.235-2-2 between 13-6-47 and 23-12-47, an amount which he duly accounted for in the court property register but failed to remit to the Treasury he was convicted and sentenced to pay a fine of Rs.400-0-0 and imprisonment till the rising of the Court in C.C.46/51 of the Sub Divisional Magistrate, Puttur.

M

5. Under the circumstances, I cannot agree that the constables concerned should be made to pay for the property which the accused is morally guilty of having misappropriated conduct of ~~kk~~ which he appears to have made a habit.

---

URGENT.
C.No.1619/Genl/52 dated 20/5/52.

Forwarded to the Inspr.-Genl. of Police, Madras.

2. It is clear ~~kkxk~~ the accused did commit misappropriation though/~~kkxx~~ was insufficient definite evidence on which to war a conviction. I agree with the D.S.P. I do not consider the P should be made to pay for the loss.

/there

X

Sd/- O.L. Burrell,
Dy.Inspr.-Genl.of Police,
Western Range.

/True copy/

for Inspr.-Genl.of Police.

nrr/30.5.

Rf.C3. 2081/52

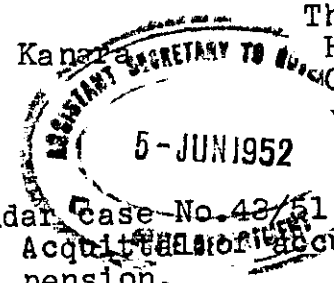
S.K.District Magistrate's Office,
Mangalore dated 31.5.52

From

Sri A. R. Rajaratnam B.A.,
District Magistrate, South Kanara.

To

The Secretary to Government,
Home Department, Fort St.
George, Madras 9.



Sir,

COURTS - Criminal-Calendar Case No.43/51 on the file of Sub Divisional Magistrate Puttur - Acquittal of accused Sri U.Ramappa withholding of reduction of his pension.

100552 ... 34190

Ref: Government Memo.No.~~84/90~~ Pr.III/50-8 Home Department, dated 5th May 1952.

I have already recommended a reduction of Rs.2/- in the pension of retired clerk Sri U.Ramappa in my report Ref.A2. 26865/51-5 dated 10.5.52 submitted to the Board of Revenue Madras. A copy of my report is enclosed for favour of information.

2. Although the accused has been acquitted there is no doubt that the properties referred to in para 1 of the judgment in CC.No.43/51 on the file of the Sub Divisional Magistrate Puttur were recovered from the dead body of the woman and sent to the Police Station at Bantwal. Sri Poovappa Poojary, the son of the deceased woman has submitted a petition for the return of the properties. The value of the ornaments lost has not been fixed. I have directed the Additional I Class Magistrate South Kanara to fix the value of the properties lost. On receipt of his report I shall submit proposals for payment of compensation and for writing off the loss.

Yours faithfully,

For District Magistrate.

Encl.I.
mn.3.6.

copy of letter Ref.A2. 26865/51-5 dated 10.5.52 Addressed to the Secretary to the Board of Revenue, Madras.

RAMAPPA (SRI) U. L.D.C. Taluk Office Puttur and ex-acting Lower division clerk Additional First Class Magistrate's Court Mangalore - Retirment from service on 17.4.48 Pension - Embezzlement of case properties and fines - Report.

---

Sri U. Ramappa Lower Division Clerk Taluk Office Puttur retired from service on 17.4.48 F.N. Before his retirement he was working as L.D.C. in the court of the Additional First Class Magistrate(General) Mangalore. There was a petition against him on 11.12.48 alleging that he embezzled some cash properties and Government fines. Although the clerk had retired from service with effect from 17.4.48 his final pension papers were pending. A charge was framed against him by the Additional First Class Magistrate Mangalore and he was called upon to explain and reconcile certain irregularities and also account for the missing properties. He merely denied all the charges but could not successfully disprove them. It was therefore directed that all the charges pending against him should be investigated and a complaint filed as there was a prima facie case against him for an offience under section 409 I.P.C. The facts of the case were reported to Government in Ref.C3. 8247/48 dated 31.7.50 and in their memo No. 34199 Courts II-50 Home Department dated 6.9.50 a the Government ordered the prosecution of the clerk. A case under section 409 I.P.C. was therefore registered against him and a charge sheet was filed on 31.1.52.

2 Two cases were filed against him in the court of the Sub Divisional Magistrate Puttur. In CC.No.43/51 he was charged with misappropriation of jewels recovered from a dead body and in CC.No. 46/51 he was charged with misappropriation of sale proceeds of property seized in CC.No.202/47 on the file of the Additional First Class Magistrate Mangalore and cash property in certain other cases. The first case ended in the acquittal of the accused. In the second case he was sentenced to imprisonment till the rising of the court in addition to a fine of Rs.400/- Copies of the judgements in CC.No.43/51 and 46/51 on the file of the Sub Divisional Magistrate Puttur are enclosed. The accused filed an appeal against the sentence in CC.46/51 and the Sessions Judge dismissed the appeal in C.A. No.12/52 dated 29.2.52. A copy of this judgment is also enclosed.

3 The final pension of the clerk has not been sanctioned. The Accountant General has sanctioned only an anticipatory pension of Rs.20/- per month as against the proposed pension of Rs.31.15.0 Some arrears of pay etc., are due to this clerk and the arrear bill is under preaudit of the Accountant General. He has withheld sanctioning of the clerk's final pension till the arrears of pay etc., due to the pensioner are drawn and disbursed to him. The total amount embezzled by the clerk is ~~is~~ Rs.285.2.2 vide jdugment in CC.46/51. Out of this amount the sale proceeds of the case properties in P.R.56/47 embezzled by the clerk amounted to Rs.180.5.4. and as the claimant filed a suit against the Government the amount had to be paid by the Government in pursuance of G.O. Ms.No.739 Home dated 20.2.51. B.P.Rt.1130/ dated 23.2.51. It is proposed to recover this sum of Rs.180;5.4 from the arrears of pay due to the clerk.

4 The pension papers of the clerk could not be submitted till now for the reasons mentioned above and also because proceedings were pending against him. He has been punished, by the

court of law for his misconduct committed before retirement. Under article 351 of the Madras Pension Code future good conduct is an implied condition of every grant of a pensi n. The Local Government reserve to themselves the right of withdrawing a pension or any part of it, if the pensioner be convicted of a serious crime or be guilty of grave misconduct. In the present case the misconduct was prior to retirement and the conviction is after retirement while the question of sanctioning his pension was still pending. Reduction of pension is also permissible under article 470(b) of the Madras Pension Code if the service has not been thoroughly satisfactory.

P 27 of Pension code

P 27 Pension code

P 125 of Pension code.

5. In the circumstances mentioned above under article 470(b) or article 351, I recommend that a reduction of Rs.2/- may be affected in his pension. I consider that a reduction of Rs.2/- (Rupees two) only will suffice in view of the long service put in by him, and the small pension of Rs.31-13-0 to which he is ordinarily entitled.

/True copy/

3/6

Draft 5/7/52

[C.No 34190.Pr.III/50]

Home Department

Memo.No. 34190 Pr. III /50-11 dated 22-7-52

Police- South Kanara district.

Allegation of misappropriation of jewels from a dead body.

Ref:- Correspondence resting with the letter from the I.G of Police, F.O.C No. 893/Crime/52 dated 31-5-52.

The I.G of Police is informed that the reply from the D.S.P, South Kanara, in his memorandum C.No. 105/camp/52 dt 16.5.52, forwarded to Govt in I.G's ref. cited, is not convincing. The D.S.P has not explained as to why the police Officers failed in their duty to act accordin to the instruction in P.S.O No. 665, the failure of which gave a handle to the accused to plead non-receipt of the property and escape the clutches of law. Had the police officer obtained a specific acknowledgmen either from the head-clerk or from the Magistrate, the result might have been different. In the circumstances, the I.G.P is requested to take severe disciplinary action against the P.C's at fault, for not observing the proper procedure, and to report to Govt in due course the result of action taken. The value of the lost arnaments need not however be recovered from the constables.

To

The I.G of Police,

Madras.

Copy to Home (Pol.2) dept.

5.7.52

1 dt 7/52

Home dept

SW/61

Memo No. 34190 05 W/50-16 dt 6/1/53.

Police - South Kanara Dt - Allegation of misappropriation of jewels from a dead body - Payment of compensation and writing off the loss.

Ref: From the D.M. South Kanara C3 2081/52 dt 31.5.52

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The D.M. South Kanara is referred to in para 2 of the letter cited and requested to expedite this further Report in the matter.

5/1/53

SE 3.1.53

3.1.53

DM South Kanara

ED 1-2-53

5.1.1953

Ref.C3.2081/52.

S.Kanara Dt.Magistrate's Office,
Mangalore dated 17.1.53.

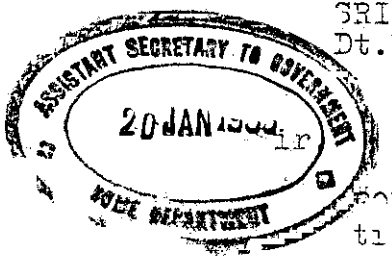
45

From

SRI C.A.RAMAKRISHNAN I.C.S.,
Dt.Magistrate, South Kanara.

To

The Secretary to Government,
Home Department, Fort St.George,
Madras 9.




POLICE - South Kanara District - Allegation of misappropriation of jewels from a dead body - payment of compensation and writing off the loss caused to Government - interim report submitted.

12542

Ref: Government memo No.34190 Courts IV 50-16 dt.6.1.53.

...

The question as to the exact amount due to the ex-clerk Sri U.Ramappa who misappropriated the property is under correspondence with the Accountant General Madras and the A.F.C.M.(General) S.Kanara. The question of compensating Poovappa Poojary can be taken up only after it is decided how much can be recovered from Sri U.Ramappa's arrears of pay etc.

2. I shall submit a final report after the actual amount due to the exclerk is decided.

Yours faithfully,

For Dt.Magistrate.

Ref.C3. 2081/52.

S.K.District Magistrate's office,
Mangalore dated 10.3-1953.

From

Sri C.A.Ramakrishnan I.C.S.,
District Magistrate of South Kanara.

To

The Secretary to Government,
Home Department, Fort St.George,
M A D R A S.9

Sir,

— POLICE: South Kanara District -Allegations of misappropriation of jewells from a dead body - Payment of compensation and writing of the loss caused to Government - Report submitted

Ref:.S.K.Dt.Magistrate's report Ref.C3. 2081/52 dated 31.5.52.
2.Govt.Memo.No.34190/Courts.IV/50.16 dated 6.1.1953.
3.My report Ref.C3. 2081/52 dated 17.1.1953.

*********

In continuation of the reports sent to Government I furnish the following particulars regarding the loss caused to Government by the ex-clerk U.Ramappa.

1. The exact amount misappropriated by the ex-clerk is Rs. 285.2.2

2. The estimated cost of the jewels misappropriated by the ex-clerk is Rs. 300/-

2/- A sum of Rs. 180-5-4 has already been recovered from the arrears of pay due to him, and a sum of Rs.24/- which is still due to the ex-clerk has been ordered by me to be adjusted towards the loss caused to Government. In all Rs. 204-5-4 has been deducted and adjusted towards the loss. The remaining loss of Rs.80-12-10 may be ordered to be written off, as the same cannot be collected from the ex-clerk.

3/- As regards the payment of compensation to the son of the deceased I am of opinion that the Government should not pay the compensation. It is open to Poyappa Poojary to proceed against U.Ramappa in a court of law.

Yours faithfully

For Dt.Magistrate.

mv 11.3.

48

Home Department

G. O. Ms. No. 1624 dated 16/5/53.

Criminal Justice - South Kanara District - Misappropriation of jewels found on a dead body in Cr.No. 114/47 of Bantwal Police Station - Payment of compensation and write off of loss in case - Ordered.

Read: From Sri Poovappa Poojari dated 9-3-1950
From the I.G. of Police, Madras Foc.No. 589/HB/50, dated 12-6-50
From the D.M., South Kanara C3. 8247/48, dated 31-7-1950, 8960/50, dated 16-11-50 and 11-1-52.
From the I.G. of Police Foc.No. 893/Crime/52, dated 31-5-52.
From the D.M., South Kanara C3. 2081/52, dated 31-5-52 and 10-3-53.

Order

Sri Poovappa Poojari, son of Akkamma Hengsu, ~~who was~~ killed in a car accident at Baddakatta in 1947, has requested that ~~the~~ ornaments worth Rs. 300/- worn by his mother, Akkamma Hengsu, at the time of the accident may be returned to him. The D.M., South Kanara has reported that the ornaments in question were misappropriated by the then Head Clerk of the Office of the A.F.C.M., Mangalore and that the Govt. should not pay ~~the~~ compensation to the petitioner for the loss of the jewels. Though as a simple proposition of law, the D.M.'s view is correct, Govt. consider that the estimated value of the jewels lost viz. Rs. 300/- (Rupees three hundred) should be paid to the petitioner provided there are no other claimants. The Govt. therefore sanction the payment to Sri Poovappa Poojari, ~~the~~ sum of Rs. 300/- (Rupees three hundred only) being the estimated value of the jewels worn by Akkamma Hengsu at the time of ~~the accident~~ her death due to accident. The D.M., South Kanara, is authorized to draw and disburse the amount to the petitioner ~~provided~~ after satisfying himself that there are no other claimants.

2. The D.M., South Kanara has also reported that a sum of Rs. 285-2-2 was misappropriated by the Head clerk referred to in para 1 above in C.C.No.202/47 on the file of the A.F.C.M., Mangalore. The D.M. has

247

reported that a sum of Rs. 204-5-4 has been adjusted towards the loss of 285-2-2, misappropriated by the clerk. The Govt. approve the proposal of the D.M. that the balance of Rs. 80-12-10 may be ordered to be written off as the same cannot be collected from the clerk and direct that the amount of Rs. 80-12-10 be written off the accounts as irrecoverable.

Cf para 2, P. 454

3. The expenditure sanctioned in para 1 above should be debited to the relevant sub-heads under the head '27. Administration of Justice'.

Cf
15.5.53

15/5/53

15/5/53

15/5/53

15/5/53

Lrd
20/10/53

To the D.M., South Kanara
" I.G. of Police
Copy to the A.G. thro. the Fin. Dept.
Copy to the Regr., High Court, Madras.
Copy to Poovappa Poojari son of Akkamma Hengsu Golthamajalu village, Mangalore Taluk.

(para 1 only)
Copy to the Rev. dept.

Home dept

C.No. 34190 (S) IV/SD

Memo No. 34190 (S) IV/50-59 26/5/53.

33/26/5

Crl. Justice – South Kanara – Misappropriation of jewels from a dead body in Cr. No 114/47 of Bantwal Police Station – Payment of compensation

Appl 44

Rep. from Sri Poovappa Poojari, dt 3/50

of para 11, p 34

With reference to his request for the return of the jewels worn by his wife, Akkamma Hengsu, killed in a car accident at Baddakatta in 1947, the petitioner is directed to approach the D.M.

p 4

4 Jan 53 [2-6 N]

2

South Kanara with proof of her identity 9753 vide p264
in the night of the claimant when the estimated value
of the jewels viz Rs 3000/- (Three thousand only)
will be paid to him

Ex
14.5.53

25/5/53

788
25/5/53

25/5/53.

To Sri Poorappa Poojary
S/o late Akkamma Hengsu
Aged
GOLTHAMAJALU village,
Mangalore Taluk

Copy to the CPM. South Kanara
in continuation of CroMs No.
1624, Home, dt 16.5.53.

pltrcf

IN THE COURT OF THE SUB DIVL. MAGISTRATE, PUTTUR.

Judgment in calendar case No.43/51 on the file of the Sub Divisional Magistrate of Puttur.

---

Complainant: State (F.S 174/50) Crime Branch. Mangalore.

Accused: Sri. U. Ramappa.

Offence: Criminal Breah of trust by public servant. u/s 409 I.P.C.

Finding: Not guilty.

Sentence: Acquitted u/s. 258(1) Cr. P.C. /S

***

DESCRIPTION OF THE ACCUSED.

Sl. No. 1. Name: Sri. U. Ramappa. Father's name: U. Subba Nail Residence: Caste or race: Naik. & Occupation: Pensioner. /Mangalore

Age: 59 Occurrence: 1.7.47. Complaint: 18.4.47.

DATE OF:

Apprehension or appearance: 3.5.51.

Release on bail. 3.5.51

Commencement of tiral. 22.6.51.

Close of tiral: 15.12.51

Sentence or order: 24.12.51.

Explanation of delay: ---

/true copy/

y.25.1.

5. Poovappa Poojari (P.W.7) the son of the unfortunate victim of the accident concerned in ~~x~~ crime No.114/47 or Buntwal station claimed the jewels belonging to the deceased at the inquest. The police told P.W.7 that he would receive the property from court. He waited for the court to return the jewels. They were not received. P.W.7 applied to the court of the Addl.I.Cl.Magistrate to return the property. There were no orders on his application. P.W.7 therefore sent a petition in the matter to the Dt. Superintendent of Police. That petition is Ex.P.12. P.W.7 sent a petition also to the Dt. Magistrate. In his proceedings Ref.C3.8247/49 dated.8.9.49 (Ex.P.13) the Dt. Magistrate informed P.W.7 that the matter was under enquiry and that final orders would be communicated to him when passed. Ex.P.14 is the further communication of the Dt. Magistrate to P.W.7 in the matter of his mother's jewels.

6. The Dt. Magistrate after preliminary enquiry into the petitioner of P.W.7 entrusted the matter to the police in his letter (Ex.P.19) dated.5.9.50 to the Dt. Superintendent of police, Sub Inspector Kunhi Kannan of the crime branch Mangalore started investigation in the case on 11.11.50. He questioned. P.Ws. 3, 4, 6, 9 and others. He also perused the property registers of the Addl.I.Cl. Magistrate's court for 1947 during the course of his investigation and found no entry in it in respect of the properties, in question, either on 1.8.47 or subsequently. After completing investivation, P.W.13 laid a charge sheet against the accused in the court of the Sub Divl. Magistrate, Mangalore. The case was first transferred to the file of the Special I. Class Magistrate, Mangalore and later to the file of this court.

7. As many as 13 witnesses have been examined by the prosecution to speak to the above facts. Of these witnesses P.W.4 is ~~s~~ Sunder Rao, who was Addl.I.Cl Magistrate, during the relevant period. His evidence shows that it was the accused who was receiving case property and putting it up to him with the property register for verification and attestation.

8. The accused when questioned under sec.342 Cr.PC., denied having received the property detailed in Ex.P.3. and pleaded 'Not guilty' to a charge under section 409 I.P.C., framed against him.

9. The question for determination in this case is whether the property was actually entrusted to the accused on 1.8.1947 as sworn to by P.Ws. 1 and 6. P.Ws. 1 and 6, it must be remembered, were swearing in court to the fact of entrustment after the lapse of over 3 years. Their oral testimony cannot therefore command much credence. The properties do not find a place in the property register of the court. The entries Ex.P.2 and P4 in the General Diary of Buntwal police Station do not make specific mention of the properties, in question. The only increminating evidence against the accused which corroborates the testimony of P.Ws.1 and 6 is his acknowledgment Ex.P.1(a) in the pass-port. Ex.P.1. Ex.P.1.(a) reads as follows: 'Received properties and F.I.R.114/47'. There is no indication in this

acknowledgment that the properties received were those relating to FIR.114/47. In the absence of such a specific acknowledgment, it will not be fair to hold that the accused received the properties connected with FIR. 114/47. In a case where valuable properties were involved, the police should not have satisfied themselves with a vague and bland acknowledgment of the kind contained in Ex.P.1.(a). It was necessary in this case to obtain the duplicate list of property duly signed by the Magistrate in token of receipt of property. If that was not feasible a specific acknowledgment should have been taken from the accused for the delivery of valuable property. This has not been done. This default has given a handle to the accused to plead non-receipt of the property and escape the clutches of the Law. Ex.P.1(a) leaves one in doubt whether the properties acknowledged by the accused are those relating to FIR.114/47 of Buntwal Station. I give the benefit of the doubt to the accused and acquit him under sec.258(1) Cr.P.C.

S

Sd. B. N. Hegde, dt.22.12.51.
Sub Divl. Magistrate.

Pronounced in open court this the 24th day of December, 1951.

Sd. xxx
Sub Divl. Magistrate.

APPENDIX.

Witnesses examined for.

Prosecution.

1. M. Krishnappa
2. P. N. Seetharama
3. V. V. Raman.
4. Sri. H. Sundar Rao
5. Narasaya.
6. Sri. K. Krishna Nair
7. Poovappa Poojari.
8. Sri. T.S.R. Venkatraman
9. Sri. K. Kamalaksha Kamath.
10. Vencent Fernandiz.
11. Janab M. K. Kutty.
12. Sri. Raman Nair.
13. Sri. C. M. Kunhkanna.

Defence.

1. Sri.H. Narasimha, Sub Divl. Magistrate, Coondapur.
2. Sri. S. Joshua Addl.I.Cl. Magistrate (Pro.) S.K.
3. Ramappa Pillai (Pro.) Peon, Addl.I.Cl. Magistrate, S.K.
4. Vasudeva K.

JUDGMENT.

This is a case in which U. Ramappa, retired Head Clerk of the Additional I.Cl. Magistrate's Court, S. Kanara stands charged for an offence punishable under sec.409.I.P.C.

2. The accused was the Head Clerk of the Addl.I.Cl. Magistrate's Court, South Kanara during the years 1947 and 1948. On 1.8.47 the Station Writer of Bantwal Station (P.W.5) deputed Constables P.Ws. 1 and 6 to Mangalore with a prisoner to be taken to the Special Sub Jail and property concerned in Crime No.114/47 of Bantwal Station to be delivered at the court of the Additional I.Cl. Magistrate, S.K. P. Ws. 1. and 6 handed over the F.I.R. and the property to the accused and obtained his acknowledgment (Ex.P1(a) in pass-port Ex.P.1. Before acknowledging the property, the accused checked the various items with reference to the list sent up under section 523 Cr. P.C. The property included among others the following valuable items:

1. a pair of gold voles
2. a pair of gold bugudies.
3. a pair of gold kadds
4. a gold 'muguti' (nose screw)
5. a gold misri
6. a gold uruku
7. a silver ear-pick and
8. a silver anklet

P.Ws. 1 and 6 demanded acknowledgment of the properties in duplicate copy of the list sent to court. The accused promised to send the duplicate section 523 list later by post after obtaining the signature of the Magistrate, who was at the time busy with court work. P.Ws. 1 and 6 therefore returned to the station leaving the lists of property with the accused and reported the matter to P.C.548 who was then in charge of the station. P.C.548 (P.W.2) made a note of the fact in the station G.D. for the day. It is Ex.P.2.

3. These properties had been taken to Mangalore on 29.7.47 by P.C.324 (P.W.3) to be delivered at the court of the Addl. I.Cl. Magistrate. On that day, the Addl. I.Cl. Magistrate was away from Mangalore. P.W.3 therefore returned to the station without delivering the properties. This fact is evidenced by the acknowledgment of P.W.3 in the list of properties (Ex.P3(a) in Ex.P.3) and also by the entry. Ex.P4. in the G.D. for 29.7.47.

4. The properties were concerned in Crime No.[illegible] of the Bantwal Station under sec.304A.I.P.C., in which a woman was run over by a motor lorry and killed by tax M[illegible].690. P.W.11 Koyakkutty was at that time Sub-Inspector of Police, Bantwal. After holding inquest over the body of the deceased on 28.7.47, P.W.11 sent the body for post-mortem examination to the Local Fund Hospital, Bantwal, for post-mortem examination. Ex.P. 448(P.W.12). The property as detailed in Ex.P. was received at the station after the Post mortem examination.

p.t.o.

[illegible]5.1.

Exhibits marked on behalf of prosecution.

P.1. 1.8.47 Passport of Buntwal Station.

P.1.a. and b. Entries in Ex.P.1.

P.2. 1.8.47 A note made in the general diary by PC.548

P.3 29.7.47 List of properties sent to Court under 522 report No.3506

P.3. a. and b. Acknowledgment for the receipt of properties under 523 report No.3506 and 3507.

P.4 Note made in the General diary.

P.5 Property Register I of A.F.C.M's court for the year 1947.

P.6 1.5.47 Charge sheet in crime No.12/47 Crime branch C.I.D. Mangalore.

P.7 1.5.47 charge sheet in crime No.11/47 crime branch, C.I.D., Mangalore.

P.8. 29.3.47 } List of properties sent to the court of S.S.M. Kasa-
P.9. 29.3.47 } rgod, in the first instance and the court of Addl.I.Cl. Magistrate, S. K., under 523 report 1428 and 1429.

P.10.27.9.47 Judgment in C.C.202/47 and C.C.203/47 on the file of the Addl.I.Cl.Magistrate, S.K.

P.11. 1.8.47 Relevant entry in the general diary for having sent the police constable with the properties.

P.12. 29.9.48 Petition sent by PW.7. to the D. D.S.P., S.K.

P.13. 8.9.49 Order of the Dt. Magistrate, dt.8.9.49, on the petition.

P.14 20.3.50 Subsequent order of the Dt. Magistrate, dt.20.3.50 in the matter.

P.15 Property Register of S.S.M's court, Kasargod, for 1947.

P. 15a. PreperEntry in the P.R. relating to Ex.P8.

P.15b verification endorsement of S.S.M. Kasaragod about the items of property in Ex.P.15.

P.15.c. acknowledgment in Ex.P.15.

P.15 (d) (e) and (f) -do-

P.16. 27.7.47 F.I.R. in crime No.114/47 of Buntwal station.

P.17. 28.7.47. Inquest report in F.I.R.114/47 -do-

P.18 28.7.47. Observation yadast recorded by the S.I. with the above case.

P.19 5.9.50 Dt. Magistrate's letter Ref.C3.8247/48 dt.5.9.50.

P.20 Volume 2 of the property Register of Addl.I.Cl. Magistrate, for 1947.

Exhibits marked for defence.

D.1. Diary of the Addl.I.Cl.Magistrat-
D.1.a. entry in Ex.D1. on 1.7.

HOME/DEPARTMENT

Memorandum No. 34190 Prisons III/50-11, dated 22nd July 1952.

***

POLICE - South Kanara district - Allegation of misappropriation of jewels from a dead body.

Ref: Correspondence resting with the letter from the Inspector-General of Police, F.O.C. No.893/Crime/52 dated 31-5-1952.

---

The Inspector-General of Police is informed that the reply from the District Superintendent of Police, South Kanara in his memorandum C.No. 105/camp/52 dated 16-5-1952, forwarded to Government in Inspector-General's reference cited, is not convincing. The District Superintendent of Police has not explained as to why the police officers failed in their duty to act according to the instruction in P.S.O. No. 665, the failure of which gave a handle to the accused to plead non-receipt of the property and escape the clutches of law. Had the police officers obtained a specific acknowledgment either from the head-clerk or from the Magistrate, the result might have been different. In the circumstances, the Inspector-General of Police is requested to take severe disciplinary action against the Police Constables at fault, for not observing the proper procedure, and to report to Government in due course, the result of the action taken. The value of the lost ornaments need not however be recovered from the constables.

O. PULLA REDDI,
Secretary to Government.

To
The Inspector-General of Police, Madras-4.
Copy to Home (Police II) Department.

Forwarded/By Order.

SRB/22-7.

Superintendent.

134944

Home Department

The I.G's reply vide reference 6 A above may be awaited (RD 24-9-52)

From

**SRI J. DEVASAHAYAM,** B.A., I.P.,
INSPECTOR-GENERAL OF POLICE,
MADRAS-4.

To

ASSISTANT
THE SECRETARY TO THE
GOVERNMENT OF MADRAS,
HOME DEPARTMENT.

P.O.C. No. 1245/Crime/53, dated 25th July 1953.

Sir,

Subject: Police - South Kanara District - Allegation of misappropriation of jewels from a dead body Result of action taken against Constables - Reported.

Ref: i. Home Department memorandum 34190/Prisons III/50-11 dated 22.7.52.
ii. My endorsement R.C.No. 1515/Crime/52 dated 22.5.53.

---

I write this in continuation of my endorsement cited.

2. The District Superintendent of Police South Kanara has reported that the increment of Constable 210 M. Krishnappa was withheld for a period of 6 months and that of Constable 413 K. Krishnan Nair was postponed for 4 months, to be spent on duty.

for Inspr.-Gen.of Police.

Home Dept

With ref. to the memo at p1 ante, please see I.G's reply above. In view of the punishments awarded to the P.Cs no further action is called for. This may be lodged and added to the papers at (F).

HOME (POLICE II) DEPARTMENT.

Police - South Kanara dt. - Allegation of misappropriation of jewels from a dead body.

Petition from Poorappa Poojari dated 9-3-1950.
(Issued as Endt.No.34190 Pol.II/50 Home dated 20-3-50
From the I.G. of Police Roc.589 HB/50 dated 12-6-50.

---

With reference to Endorsement No.34190 Pol.II/50-1 Home dated 20-3-1950, the I.G. of Police has forwarded a report from the D.S.P., South Kanara on the allegations in the petition on pp.1-3 c.f. The complaint in the petition is that the ornaments ~~received~~ removed by the Police from the dead body of this petitioner's mother were not sent to the Court by the Police. The D.S.P's report shows that the orgaments were sent by the Police to the Court of the Additional First Class Magistrate, South Kanara and that their receipt was acknowledged by Sri U.Ramappa, the then Head clerk of the Court. The case against the driver of the taxi involved in the accident in which the petitioner's mother was killed, has been discharged under section 253 (1) Cr.P.C. by the Addl. First Class Magistrate, but the ornaments are not forthcoming. The D.S.P. has also stated that the Public Prosecutor, Mangalore who was consulted in the matter has stated that there is a prima facie case against Sri U.Ramappa for an offence under section 409 I.P.C. and that this is a fit case for prosecution. The D.S.P's report however does not show whether proceedings will be instituted against Sri U.Ramappa. In any case, the police were not responsible for the loss of the ornaments, and the only question that remains is in regard to the prosecution of the head clerk Sri U.Ramappa. It is for orders whether the Inspector General should be asked for a further report. If so the case may be transferred to Courts I for further action.

21/6/50

21.6.50

Home courts (II) dept -

Please see this dept's note on plaint. The D.M's remarks may be obtained in the first instance.

The draft memo submtd. below is for approval

Delay
KG
7.7.50
VDII
SNo 456

KG.
7.7.50.

SEY
6/7/50
6.7.50.

(Issued as memo No 34190 Cts II/50-2 dt 7.7.50) p13 cf

From the D.M., South Kanara c3. 8247-48 dt 31.7.50) p15 cf

The petitioner's mother, Akkamma Hengsu was run over by a taxi on 27-7-1947 near Jakribettu in Bantwal cusba. The Bantwal Police registered a case ( Cr.No.114/47) under section 304 (A) I.P.C. against the driver of the taxi. The petitioner's mother was admitted as an impatient in the L.F. Hospital, Bantwal where she died on 27-7-1947. An inquest was held by the S.I. of Police on the same day and the ornaments which were found on the person of the deceased were seized by the police under a Mahazar. Please see the list of articles seized at 'A' on p.11 c.f. The driver of the taxi was discharged by the A.F.C.M. Mangalore in C.C.No.325/47 on his file.

'N' on p11 cf

S on p11 cf

2. The petitioner has stated that after the disposal of the case he filed a petition before the A.F.C.M. South Kanara in July 1948 praying for the return of the gold jewels removed from the dead body as he is the legal heir best entitled to receive the ornaments. He has also stated that he approached the District Magistrate of South Kanara to hold necessary enquiry and order the return of the jewels

para 5, p2 cf

para 9, p3 cf

seized but that he did not get any reply. The petitioner has therefore approached the Govt. with a request that necessary action may be taken against the authorities concerned and ~~xxxxxxxxxx~~ immediate return of the jewels to him. may be ordered.

para 11, p3 of

3 The remarks of the I.G. of Police and the D.M. South Kanara were invited on the request of the petitioner. The I.G. of Police has forwarded a copy of the detailed report from the D.S.P. South Kanara in the matter. The D.S.P. has stated that the properties of the deceased seized by the police were sent to the court of the A.F.C.M. South Kanara and the receipt of the properties was acknowledged by the then Head clerk of the court, Sri U.Ramappa on the passport of police constables Nos. 210 and 413 of Bantwal station, that the passport together with the statement of P.C.210 was sent to the D.M. South Kanara and that the acknowledged copy of 523 report was not received at the police station, even though the Head clerk of the court promised to send it direct to the station by post. He has also stated that the allegations that the police did not send the ornaments to the court of the A.F.C.M. are unfounded and that the properties nad been sent to the court and their receipt acknowledged by the Head clerk, who obviously misappropriated the same.

p7 of
- p13 of

p9 of
- pp11-12 of

'X' on p11 of

1 to 8

4 of pp 2-3 of

'M' on pp11-12 of

4. The D.M. South Kanara has stated that the records of C.C.No.325/47 on the file of the A.F.C.M. South Kanara show that the ornaments in question were not marked as M.Os. in the case as they did not form the subject matter of the case and that there was no record to show that these properties were received in the court and there were no entries in the Property Register also. ~~It has been stated that~~ It was only when the parties put in a petition before the court for the return of the property that

para 2, p15 of

2 to 5

these things came to light. It has been reported that a charge was framed against the clerk concerned Sri.U. Ramappa ( who has since retired from service) for various irregularities committed by him in the office. Please see the A.F.C.M's letter at p.17 c.f. He has denied all knowledge about the ornaments although there is an endorsement in the passport in his own hand-writing showing the receipt of properties and F.I 114/47 with his signature and explained that he signed the passport at request of the police without actually receiving the properties in the midst of heavy work. The D.M. has stated that from the circumstances of the case he is satisfied that there was a case of misappropriation and that he requested the D.S.P. to investigate further with a view to prosecute Sri U. Ramappa under section 409 I.P.C. and informed also the petitioner of the fact.

5/ The D.M. agrees that there is no truth in the allegation that the ornaments were misappropriated by the Police, but however considers that the circumstances under which the properties and the 523 report were handed over to the clerk and not the Magistrate and the responsiblity for the loss of the jewels can be fixed only after the disposal of the case against the clerk. The D.M. has also directed that all the charges pending against the retired clerk should be investigated and complaints filed.

6/ Submitted that it appears that the ornaments were removed from the dead body and handed over to Sri U. Ramappa the Head clerk of the court. The Head-clerk has acknowledged the receipt of ornaments. The P.P. South Kanara is of opinion that there is a prima facie case against the Head clerk for offences of misappropriation. The D.M. has asked the D.S.P. to investigate into the matter further with a view to prosecute the Head clerk . ~~It is clear that the properties were removed from the dead body by the~~

~~Police and handed over to the Head clerk. In the ordinary course the jewels will have to be returned to the party and if the jewels are not available, as it appears in this case, a sum equivalent to the value of the property ornaments will have to be paid.~~ It cannot be foreseen what orders will be passed by the court trying the Head-clerk for offences of misappropriation. As the D.M. has stated ~~that~~ the responsibility for the loss of jewels can be fixed only after disposal of the case. It seems desirable to await the result of the case. The D.M. may be asked to take early steps to prosecute the offender and to send a report to Govt. ~~Government also.~~ The D.M. is competent to sanction the prosecution of Srei M. Ramappa.

para 5, rpt 6 cf

80 A

7. Revenue may see.

Home No. 34190
dt II-50.2
21/8/50

17.8.50
18.8.50

21.8.50 Rev.

Rev. Dept.

SECRETARIAL ADS SECRETARY
21 AUG
60273 93
REVENUE DEPARTMENT

VS/ks
26/8/50

TO U.S

May be perused and returned to Home.

OV

26.8.50 26.8.50

28/8/50

Home

Home
Rev No
60273 G1/50-1
28.8.50.

Home dept

GOVERNMENT
2 AUG 1950
HOME DEPARTMENT

With reference to A1 above, the draft submitted below is for approval. For orders as to issue of the order.

29.8.50 31.8.50

1.9.50

2.9.50 ADS

5/9/50

b. (Issued as memo No. 34190 dt. III/50-3 dt. 8.9.50) p194

(From the D.M., South Kanara C3 8960/50 dt. 16.11.1950) p214

Please see this dept's typed notes on pp2-5 ante, the memo to the Collector of South Kanara at p194 and his reply at pp21-22 of which he has stated that he has sent a formal complaint to the police regarding the misappropriation of jewels concerned in C.C. No. 325/47 on the file of A.F.C.M, South Kanara and the sale proceeds of seizures in C.C. 02/47 by Sri M. Ramappa, late head clerk of the A.F.C.M's court, South Kanara. He has also reported similarly. p214

The D.S.P., South Kanara has directed the Inspector of Police, Mangalore to complete the investigation and lay a charge sheet at an early date. S on p214

The result of the investigation may be awaited. The D.M. will no doubt send a further report in the matter. This further report may be awaited till 31-12-50

Rev. may see.

24/11/50

X 182311

ASSISTANT SECRETARY 2/12 GOVERNMENT 2-DEC 1950 REVENUE DEPARTMENT

Rev.

25/11/50

Home o. 34190
PJ III/50-4
D/27-11-50.

To dis

may be perused and returned to Home

29-XI-50

Rev. Defer

30/11/50 Home

Rev. no 80962/50-1
1.12.50

Rev 80962/50 G3
28/12/50

7

Home Dept

This may lie over till 31.12.50 -

Cp 'x' on p6 ante

6/12/50 6.12.50

12/50

F... LOMAR 951 ...

From the D.M., South Kanara

C3. 8960-50 dt 19-2.51

The D.M., South Kanara has reported that a case under section 409 I.P.C was registered by the police and that after investigation a charge sheet under section 420 I.P.C was filed in the court of Sub-Divisional Magistrate, Mangalore on 31-1-1951

A | The result of the case may be awaited - cp 'A' on p5 ante.

Rev. may also see

24.2.51.

24/2/51. Rev

Rev. Dept

Home L.O 3419

P.W. III/50-6

D/26.2.51

2 MAR 1951

Tours

15715

(Last Secy this Dept on top 5th ante)

further note of Home above may be perused & the file retd. to Home.

5.3.51

5-3-51

7/3/51

Home dept

3 - MAR 1951 16205 Gl/51-1 REVENUE DEPARTMENT

045884

Rev. no. 16205 Gl/51-1

7.3.51

May lie over till 1-5-51

awaiting the result of the case - cp 'A' above

10.3.51

11/3/51.

8

Please see the lie over orders at p7 ante.

The result of the case has not yet been ~~communicated~~ reported. Apparently, the case is still pending. ~~Correspondence~~ It does not seem necessary to remind the D.M. His report may be awaited till 1-7-51

315/51
8/5/51

4/5/51

(Interim reports to be put up to pc)

(From the D.M., South Kanara C3 8960/50 of 11.1.52) — p 27 C

XX

The petitioner, Poovappa Poojary requests that necessary action may be taken against the authorities concerned and that immediate return of the jewels removed from the dead body of his ~~s~~ mother to him may be ordered. — 4 para 11, p3 C

The facts of the case are as follows:-

The petitioner's mother, Akkamma Hengsu was run by a taxi on 27-7-47 (near Jakribettu) in Bantwal Cusba. The Bantwal Police registered a case (Cr.No.114/47) under section 304AI.P.C. against the driver of the taxi. The petitioner's mother was admitted as an inpatient in the L.F.Hospital, Bantwal where she died on 27-7-47. An inquest was held by the S.I. of Police on the same day and the ornaments which were found on the person of the deceased were seized by the S.I. of Police under a Mahazar. The list of articles seized is at 'A' on p. 11 c.f. The driver of the taxi was discharged by the A.F.C.M. Mangalore in C.C.No.325/47 on his file. — Nan p11 C — 5 on p11 C

The petitioner ~~has~~ stated that after the disposal of the case, he filed a petition before the A.F.C.M. South Kanara in July 1948 praying for the return of the jewels removed from the dead body, as he is the legal heir best entitled to receive the ornaments. He ~~has~~ also stated that — para 3, p2 C

he approached the District Magistrate of South Kanara for the return of the jewels seized but that he did not get any reply. The petitioner has therefore come up to Govt. with a request that necessary action may be taken against the authorities concerned and immediate return of the jewels to him may be ordered.

2. The remarks of the I.G. of Police and the D.M. South Kanara were invited on the request of the petitioner. The I.G. of Police forwarded a copy of detailed report from the D.S.P. South Kanara in the matter. The D.S.P. stated that the properties of the deceased seized by the police were sent to the Court of the A.F.C.M., South Kanara and the receipt of the properties was acknowledged by the then Head clerk of the Court, Sri U. Ramappa on the passport of Police constables Nos. 210 and 413 of Bantwal Station and that the passport together with the statement of P.C.210 was sent to the D.M. South Kanara. The D.S.P. also stated that the acknowledged copy of the report under sec. 529 Cr.P.C. was not received at the Police Station even though the Head clerk of the Court promised to send it direct to the Station by post. He further stated that the allegations that the police did not send the ornaments to the court of the A.F.C.M. were unfounded and that the properties had been sent to the Court and their receipt acknowledged by the Head clerk, who obviously misappropriated them.

3. The D.M. South Kanara stated that the records of C.C.No.325/47 on the file of the A.F.C.M. South Kanara showed that the ornaments in question were not marked as M.Os. in the case, as they did not form the subject matter of the case; that there was no record to show that these properties were received in court; that there were no entries in the Property Register and that it was only when the party put in a petition before the court for the return of the property these things came to light. The D.M. also stated that the Head clerk denied all knowledge about the ornaments although there is an endorsement in the passport in

his own hand writing showing the receipt of properties and F.I 114/47 with his signature and explained that he signed the passport at the request of the police without actually receiving the properties, in the midst of heavy work. The D.M. further stated that from the circumstances of the case, he was satisfied that there was a case of misappropriation and that he had asked the D.S.P. to investigate further with a view to prosecute the head clerk, Sri U.Ramappa under sec.409 I.P.C. The D.M. agreed that there was no truth in the allegation that the ornaments were misappropriated by the police, but however considered that the circumstances under which the properties and the 523 report were handed over to the clerk and not the Magistrate, the responsibility for the loss of the jewels could be fixed only after the disposal of the case against the head clerk.

4. A case under sec.409 I.P.C. was registered by the Police and after furhter investigation, charge sheet was filed on 31-1-51. The case was tried by the Sub divisional Magistrate, Puttur. The case ended in acquittal. The Magistrate has given the benefit of doubt to the accused.- Please see the copy of the judgment at (W). Relevant portion of the judgment is extracted below for easy reference:-

> "The question for determination in this case is whether the property was actually entrusted to the accused on 1-8-47 as sworn to by P.Ws.1 and 6. x x x x x x x The properties do not find a place in the Property Register of the Court. The entries E.X.P2 and P4 in the General Diary of Buntwal Police Station do not make specific mention of the properties, in question. The only increminating evidence against the accused which corroborates the testimony of P.Ws.1 and 6 is his acknowledgment Ex P1 (a) in the passport. Ex. P1(a) reads as follows:-
>
> "Received Properties and F.I.R. 114/47".
>
> There is no indication in this acknowledgment that the properties received were those relating to F.I.R.114/47. In a case where valuable properties were involved, the police should not have satisfied themselves with a vague and a bland acknowledgment of the kind contained in Ex. P.1(a). It was necessary in this case to obtain the duplicate list of property duly signed by the magistrate in token of receipt of property. If that was not feasible a specific acknowledgment should have been taken from the accused for the delivery of valuable property. This has not been done. This default has given a handle to the accused to plead non-receipt of the property and escape the clutches of law. Ex. P1(a) leaves one in doubt whether the properties acknowledged by the accused

are those relating to FI[R] 114/47 of Buntwal Station. I give the benefit of the doubt to the accused and acquit him under sec. 258(1) Cr.P.C.".

5. The fact seems to remain that the police seized properties of the deceased and sent them to the Court of the A.F.C.M. Under sec.523 Cr.P.C. the seizure by any police officer of the property found under circumstances which create suspicion of the commission of any offence shall be forthwith reported to a Magistrate. Under Police Standing Order 665, Form No.91 is used for sending to the Magistrate property which comes into the hands of the Police otherwise than in a formal search of premises. Three copies of the form should be prepared by means of carbon paper. The triplicate should be retained in the Station and the remaining two copies sent to the Magistrate with the property. When the duplicate copy is received back from the Magistrate with his orders thereon, it should be pasted in the book and the triplicate copy removed and filed with the case diary. The police in this case do not appear to have followed the above procedure. It has been stated by the D.S.P. that the acknowledged copy of 523 report was not received at the police station even though the Head clerk of the Court promised to send it direct to the Station by post. The Police were satisfied with the ~~following~~ acknowledgment in passport viz. "received properties and F.I.R.". The fault of the police in not having obtained a specific acknowledgment from the headclerk or from the Magistrate has given a handle to the accused to plead non-receipt of the property and escape the clutches of law. In the circumstances of the case it is for orders whether the I.G. of Police may be asked to state whether the responsibility for the loss of the jewels cannot be fixed on the police and if so, whether the value of the property cannot be recovered from them.

6. The Magistrate has given benefit of doubt to the accused (Head clerk). The head clerk has since retired from service but in the judgment d.22-12-51, it is stated

34190

that his pension is still hanging in the balance. The conduct of the head clerk is however not above suspicion. He was sentenced by the same Sub divisional Magistrate, to imprisonment till the rising of the Court and to pay a fine of Rs.400/- or in default to undergo simple imprisonment for 4 months for offences of criminal breach of ~~km~~ trust in respect of certain case properties in another case - C.C.No.46/51 on his file. Please see the irregularities committed by him (listed at p.17 c.f.. The D.M. may perhaps be asked whether any action has been taken against this head clerk in view of 'A' above and whether any pension has since been sanctioned to him. The D.M. may also be asked to state whether he has any proposal to file an appeal against acquittal in C.C.43/51. If so he may be requested to expedite his report. For orders.

Rev. and Fin. may see for remarks if any.

para 2, p 1 f

A Separate in Cover

Appeal does not seem necessary

Thro. Pol. II and Cts. II.

J.S

Rev / Fin.

The police should have handed over the properties which were valuables to the magistrate. They must all gold and silver ornaments. If there any record to show their approximate value.

Also the rule about sending valuables to Courts. Can they be handed to them.

(B.S.O. was not readily available.

Resubmitted with reference to J.S's note above.

P.T.O.

The list of articles seized by the S.I. of Police under a mahazar is at 'A' on p.11 c.f. The petitioner has stated that at the time of accident, the deceased was wearing gold ornaments worth about Rs.300/-. Apart from this there is no other record to show the approximate value of the gold and silver ornaments seized.

2 Under paragraph 162(iii) of the Board Standing Orders, it is the duty of the magistrate to see that all reasonable precautions are taken for the safe custody of money and valuables received by him in the course of official business whether in his revenue or magisterial capacity. Valuables as a rule should be kept in the treasury and other property should be secured in a strong wooden box under lock and seal in any of the office rooms. When proceeding on tour, he should, if practicable, transfer the valuables and money in his custody to a public treasury and where such a course is not feasible, should take particular care that the necessary precautionary measures are adopted to ensure their custody during his absence from headquarters. He must exercise his discretion as to the best method of safeguarding property received during the course of a tour.

A register of property received in criminal cases should be maintained in the form prescribed in the Criminal Rules of Practice. The entries in the Regr. should be checked periodically by the Magistrate with reference to the actual property under custody so as to prevent losses through misappropriation. R.D.Os. should in their capacity as S.D.Ms check the property registers during their inspections and satisfy themselves that the registers have been duly accounted for.

3 It will be seen from the above, that the responsibility for the safe custody of all valuables received in court rests with the Magistrate and not with the Head Clerk. Under Police Standing Order 665, Form No.91 is used for sending to the Magistrate property which comes

into the hands of the Police otherwise than in a formal search of premises. Three copies of the form should be prepared by means of carbon paper. The triplicate should be retained in the Station and the remaining two copies sent to the Magistrate with the property. When the duplicate copy is received back from the Magistrate with his orders thereon, it should be pasted in the book and the triplicate copy removed and filed with the case diary.

p. 461 of BH (152)

4. It seems therefore clear that according to the above provisions ~~does clear from the above that~~ the property should not be handed over to the head clerk as was done in this case.

ep x on p 7 ante

The file may be sent to Rev. and Fin. for remarks.

21.3.52 HS
1.4.52.

1/4/52. J.S. Prasad 1/4/52

Shri HB Lavhen adopted 400

Rev
Fin.
Rev. Deptt

Hamara No 34190 Proc/50 b
1.4.52

bd.S.

(Last seen in this Deptt. on page 7 ante)

The notes of Home Deptt. from XX on page 8 ante may be perused. Revenue is concerned only with para 6 on pages 11-12 ante. As there is clear case of suspicion in the present case against the Hd. clerk (the Mgte. gave him only the benefit of doubt) and as he has also been convicted in another case, action may be taken now itself to withdraw / ~~withdraw~~ the P.H. may be asked to withdraw the pension of the clerk ~~suitably after~~

ADDITIONAL ASST. SECRETARY TO GOVT. REVENUE DEPARTMENT 1952 1951/7 G3

A on p 12 ante

Order Art. 35 C.S.R (1.2.7th ...)

X/le 1482

this Dept. may therefore suggest that the D.M. be asked to initiate action in that regard and to submit the case to Govt for orders.

With the above remarks, the file may be passed on to Fin.

6/4/52 6.4.52

7452 7/4 DY SEC FIN

Rev. no 1954 7 G/52-1
17.4.52

Fin

7 in (Accts)

The file deals with the complaint from one Poovappa Poojari, son of Akkamma Hengsu, the victim of a car accident at Baddiakallā in 1947, that the police has misappropriated the ornaments worth Rs worn by his mother at the time of the fatal accident. On investigation it is found that the ornaments were sent by the Police to the court of Addl. Dclass magistrate S. Kanara and got acknowledged by the Head clerk of that office in the Police passport. The police did not get any acknowledgment from the magistrate as required under the rules. The ornaments were not entered in the property register of the Court and apparently misappropriated by the Head clerk referred to above. The case instituted against the Head clerk in the Court ended in the acquittal of the accused in the absence of the formal acknowledgment, but convicted on other charges. Home Dept proposes to ask the Dy. authorities the responsibility for the loss of property cannot be

X on p11 C.F

Z on p15 C.F

para 2, p15 C.F

A. p10 above

para 2, p 22 C.F

A

Con p11 above

ADDITIONAL DEPUTY SECRETARY
APL 1952
FINANCE DEPARTMENT

pursued on the Police and the value be recovered from the persons at responsible. Rev. The H.C. Head clerk has since retired and Rev Deptt proposes to ask the D.M. to take action to withhold or reduce pension of the Head clerk. Z manner may agree to both proposals.

A

B

Thron Pension

14/4/52

3.4.52

17.4.52

Home

18/4/52

Home

Home (Pr.III) Dept.

Fin no 26749 Accts-I

18-4-52

Please see the notes of Rev. and Fin. Depts. at pp. 14-16 above. With reference to portion marked 'A' in this Dept.'s note at p. 11 ante with which Fin. have agreed a draft memo. to the I.G. of Police is submitted for approval. With reference to A on p. 12 ante Rev. has suggested that the D.M. South Kanara may be asked to initiate action to withhold or reduce the pension of Sri U. Ramappa the ex- headclerk of the Addl. First Class Magistrate's Court, South Kanara and submit the case to Govt. for orders. Finance have also agreed with the suggestions of the Rev. Dept. referred to above. A draft memo. to the D.M. South Kanara is also submitted for approval. Draft B.

21 APR 1952

Cf pp 14-16 ante

B above

Above Police II.

draft I

2.5.52

2.5.52

3

5.5.52

Issued as memo no. 34190. Pr.III/50-7 Dt 5.5.52. p29 Cf.

Issued as memo no. 34190 Pr III/50-8 Dt 5.5.52 p30 Cf

p31 c/f From the I.G. of Police, Foc.No. 893/Crime/52, d. 31-5-52.
p35 c/f From the D.M. South Kanara Ref. C3. 2081/52, d. 31-5-52

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With reference to the Memos. at pp. 29 and 30 c.f please see the replies from the I.G. of Police and the D.M., South Kanara at pp.31 and 35 c.f. respectively

2. The D.S.P. South Kanara has stated that while the failure of the Police to have obtained a receipt in detail for the property in form No.91 certainly enabled the accused to plead non-receipt of the property and thus escape conviction and the police officer(s) responsible is thus liable for punishment for not observing the correct procedure, it would not be equitable to recover the value of the property misappropriated by the accused ... police officer(s) concerned for the following reasons:-

para 1 p 33 c/f

✓ p 104 of Bk No 137.

para 1, p 33 c/f.

(a) The version of the constables that they did in fact hand over the property to the accused has not been rejected either explicitly or implicitly by the court. All that the court has said is that their testimony after a lapse of three years cannot "command much evidence" by which, presumably is meant that it was insufficient and further corroboration is required

para 2, p 33 c/f

(b) There is an admitted acknowledgment by the accused in the passport of the constables of certain properties. If the court was not satisfied that the properties related to Cr.No.114/47, it was open to it to atleast ascertain in what other connection property was sent to the Magistrate and acknowledged by the accused on the same passport, the same day.

para 3, p 33 c/f

(c) This was not the only case in which the accused stood charged. The accused was convicted and sentenced to pay a fine of Rs.400/- and imprisonment till the rising of the court in C.C.No.46/51 of the S.D.M. Puttur.

para 4, p 33 c/f

PTO

18

3. For the reasons stated above, the D.S.P. has stated that he cannot agree that the constables concerned should be made to pay for the property, which the accused is morally guilty of having misappropriated, ~~conduct of which he appears to have had a habit.~~ The Dy. Inspector General of Police, Western Range has agreed with the D.S.P. and has stated that it is clear the accused did commit misappropriation though there ~~was~~ was insufficient evidence on which to warrant a conviction. The I.G. of Police has agreed with the D.S.P. and the Dy. Inspector General of Police that the constables should not be made to pay for the loss of the jewels.

para 5, p 33 c/f

x on p 33 c/f

p 31 c/f

4. The reply from the D.S.P. South Kanara does not seem very convincing. He has not explained as to why the police officers failed in their duty to act according to the instruction in P.S.Q. No. 665, the failure of which gave a handle to the accused to plead non-receipt of the property and ~~from~~ escape ~~from~~ the clutches of law. Had the police officers obtained a specific acknowledgment either from the head clerk or from the Magistrate, the result might have been different. As admitted by the D.S.P. himself, it seems the police constables are liable for punishment for not observing the correct procedure. The D.M. South Kanara has stated that the Addl. Ist Class Magistrate has been asked to fix the value of the properties lost. The D.M. has promised that he will submit proposals for the payment of compensation and for writing off the loss on receipt of report from the Addl. 1st class Magistrate. His further report may be awaited, before the question of recovering the value from the police constables is pursued further.

p 33 c/f

x p 461 of Bk no 135.

para 1, p 33 c/f

para 2, p 35 c/f

para 2, p 35 c/f

5. The D.M. South Kanara has stated that he has already recommended to the Board of Rev. a reduction in the pension of retired head clerk Sri U.Ramappa. The D.M. has stated that although the accused has been acquitted, there is no doubt that the properties were recovered from the

para 1, p 35 c/f

para 1, p35 ante

dead body of the woman and sent to the Police Station at Bantwal.

6. As the question of reducing or withholding the pension of the ex-head clerk Sri U.Ramappa is a matter for Rev. this may be sent to Rev.Dept. with reference to the report of the D.M. in the matter.

X p35 ante

Thro.Pol.II

18 ante

11.6.52

11.6.52

Para 4 of the note on p18 ante:-

The D.S.P, South Kanara is apparently of the view that some punishment other than "recovery from pay should be awarded to the police officer (or officers) concerned. There seems to be no need to disagree with the D.S.P, especially in view of the fact that the Head clerk seems to have been misappropriating cash properties in other cases also.

para 1- p33 ante

Man p33 ante & para 4 - p33 ante.

14.6.52

What exactly then is the punishment proposed against these P.C's ?

16/6/52

Submitted. There is no information in the file as to what exactly is the punishment proposed against the police officer (or officers) concerned. Subject to orders the draft memo submitted is for approval.

20-6-52

P.T.O.

20/6/52

Put up separately

90

IGP may be directed to take severe disciplinary action against the Pks at fault. Recovery of money does not seem necessary. Regarding flow pre-page Rev may see.

28/6/52

ADS.

ADS
28/6/52

Rev

Home
No 34190 Prm/52
23.6.52

To A.S.

[Last seen in this dept. at pages 14-15 ante]

The memo to the D.M. South Kanara at page 30 cf and the D.M's report at pages 35-37 cf may be perused. Action in regard to the reduction of pension of the clerk will be taken in this dept. on receipt of the Board's report on the Collr's letter on page 37 cf. The file may be returned to Home

28/6/52

Home

Home Dept.

Please see the notes of this dept and of Rev. at pp 17-20 above.

With reference to x above, a draft memo to the I.G of Police is submitted for approval.

The further report promised by the D.C. S. Kanara in para 2 of his report at p35 of may be awaited.

Fin may see before issue of the draft memo. Thro Police II

5.7.52 5.7.52

7/7/52 FIN

5/7/52

Rev
Home
No 34190 Prm/52
23.6.52

ADDITIONAL ASST. SECRETARY TO GOVERNMENT
25 JUN 1952
422506
REVENUE DEPARTMENT

Revenue 422506/52
28.6.52

ADDITIONAL DEPUTY SECRETARY TO GOVT.
7 JUL 1952
50277
FINANCE DEPARTMENT

Home no 34190 Prm/50-I
1.17034
7.7.52

ASSISTANT
7 JUL
HOME DEPARTMENT

Yes, per above and the papers are sent herewith. X

It will be for Govt. to decide whether the culprit who is the Head Clerk will

From (Accts)

[Pre. from. notes on pp. 15-16 above]

'b', p. 11 above
* worth Rs. 300 — vide 'M', p. 10 ante.
'y', p. 20 above 13185/49/7
'X', p. 20 above 17.7.52

Against their original proposal to recover the value of ornaments lost, from the police Constables, Home now Consider that it will be too great a hardship to effect recovery from them, as the Culprit was the head-clerk. They propose to take disciplinary action against the p.c.s. / Finance may agree. the draft memo. below may be perused.

2. No special remarks are called for on the question of reduction of a sum of Rs. 2/- p.m. from the pension of the Clerk in view of 'X' on p. 20 above.

Pa 15.7.52
Home 15-7-52
17.7.52

Thro' Pen. 15/7/52

15/7/52 Home

From U.O. No. 50277-Accts(52)-I 19-7-52

Home Dept.

Please see the note of this dept at p. 20 ante and the note of Fin. at p. 21 above. The draft memo to the I.G. of Police, may issue.

19.7.52
16
19.7.52

21/7/52

(Issued as Memo No. 34190-Pr. III/50-11 Home dt 22.7.52).

Home dept.

Please see the routine note of Rev. dept in the top file. With ref. to (CNO 4-2.. 4/52 Ks. 1
X on p3 of the routine rco note in the top file, this may be sent to Rev. dept for reference and return

25.7.52 25.7.52. 26/7/52 Rev. Home. U.O. 34190/pt.III/52-12 26/7/52

Home dept.

WM. South Kanara
Rc: HTRW]
53.211 G
29/7/52.

A further report from the D.M. South Kanara on 'A' at p35 cf has not yet been received. He may be reminded. A draft memo is subtd for approval.

5.1.1953

3.1.53.

3.1.53

p43 cf.

(issued as memo No 34190 etc IV/50-16, Home, 6.1.53)

From the DM South Kanara e3.2081/52 9.1.53 p45 cf

—

see WM's report at p40 cf. is subtd. for perusal

His final report may be awaited till 28.2.52 cf para 2, p43 cf

21.1.1953

21.1.53.

21.1.53.

Please see the lie over orders above. In para 2, p45 cf the WM South Kanara has promised to send a final

report after the actual amount due to the ex-clerk is decided. He will no doubt send his report in matter in due course. If ~~he~~ not seem necessary to remind him now in the matter. This may continue to lie over till 30.3.53.

Sd/
4.3.53 h

Cal.
9/3
4/3/53

p46 4 — From the D.M. South Kanara (3)
2081/52 9/10.3.53

The petitioner's mother, Akkamma Hengsu was run over by a taxi on 27-7-47 near Kakribettu in Bantwal cusba. The Bantwal Police registered a case (Cr.No.114/47) under section 304 (A) I.P.C. against the driver of the taxi. The petitioner's mother was admitted as an inpatient in the L.F. Hospital, Bantwal where she died on 27-7-1947. An inques was held by the S.I. of Police on the same day and the ornaments which were found on the person of the deceased were seized by the police under a Mahazar. Please see the list of articles seized at 'A' onp.11 c.f. The driver of the taxi was discharged by the A.F.C.M. Mangalore in C.C.No.325/47 on his file.

pars 5, p2 4 — 2. The petitioner stated that after the disposal of the case he filed a petition before the A.F.C.M., South Kanara, in July 1948 praying for the return of the gold jewels removed from the dead body as he is the legal heir best entitled to receive the ornaments. He also stated that he approached the District Magistrate of South Kanara to hold necessary enquiry and order the return of the jewels seized but that he did not get any reply. The petitioner therefore approached the Govt. in March 1950 with a request that necessary action might be taken against the authorities concerned and immediate return of the jewels to him may be ordered.

pars 11, p3 4

3 On investigation it was found that the ornaments were sent by the Police to the Court of Addl. Ist Class Magistrate, S. Kanara, and got acknowledged by the Head Clerk of that office in the Police Passport. The police did not get any acknowledgment from the magistrate as required under the rules. The ornaments were not entered in the property register of the court and apparently misappropriated by the Head clerk referred to above. The case instituted against the Head Clerk on this count ended in the acquittal of the accused in the absence of the formal acknowledgment but he was convicted on other charges.

4 In May 1952, the D.M. South Kanara reported that although the accused had been acquitted, there was no doubt that the properties referred to were recovered from the dead body of the woman and sent to the Police Station at Bantwal.

5 The D.M. has stated that the exact amount misappropriated by the ex-clerk (in C.C.No 46/51) is Rs. 285-2-2. and that apart from this the estimated cost of the jewels misappropriated by the ex-clerk (in C.C. No 43/51) is Rs. 300/-.

A sum of Rs. 180-5-4 has already been recovered from the arrears of pay due to him, and a sum of Rs.24/- which is still due to the ex-clerk has been ordered by him the Dt magistrate to be adjusted towards the loss caused to Govt. In all Rs. 204-5-4 has been ~~reduced~~ adjusted towards the loss.

The D.M. requests that the remaining amount of Rs. 80-12-10 may be ordered to be written off as the same cannot be collected from the clerk.

As regards the payment of the value of the jewels to the petitioner, the D.M. is of the opinion that the Govt. should not pay the compensation and that it is be open to the petitioner to proceed against Sri U. Ramappa in a Court of Law.

6 It is not clear how the petitioner can proceed against the exhead clerk in a court of law for the recovery of the cost of jewels. He was charged for offences of criminal breach of trust in respect of jewels referred to before S.D.M. Puttur in C.C.No.43/51 on his file. The S/J is responsible for the custody of the property which was [illegible] by the Sub-Magistrate.

Sanction (11)

B a p 12 abt

the case ended in ~~discharge~~ acquittal. The question of filing an ~~revision~~ appeal in the case and fixing the responsibility on the police for the loss of the jewels were considered and dropped. It is also not clear how the petitioner can seek remedy in a court of law in which the properties sent to the Court were misappropriated. It appears that this is a case in which the petitioner can sue the Govt. in a Court of Law for the return of properties.

7 In the circumstances the proposal of the Collr. to write off Rs. 80-12-10 may be accepted and the Collr. may also be asked to pay the estimated value of Rs. 300/- to the petitioner provided there are no other claimants.

I Revn Finance and Legal (Opns.) may see for remarks.

26.3.53

27/3/53

Rev / Fin / Legal (Opns)

Rev. Dept.

To U.S.

(This Dept last noted on the file at page 20 ante)

The notes of Home Dept. from page 23 ante may be perused and the file passed on to Fin.

(With reference to the charges on which the ex-clerk Sri. U. Pamappa was convicted, his pension has been ordered to be reduced by Rs. 5/- p.m.)

Home U.O 34190 chi IV/50-17 20/3/53

ADDITIONAL ASST. SECRETARY TO GOVERNMENT 30 MAR 1953 28325 REVENUE DEPARTMENT

6/4/53

6/4/53

R.K 1/4/53

Rev. No. 28325/53 27.4.53.

ADDITIONAL ASSISTANT SECRETARY TO GOVERNMENT 7202 LEGAL DEPARTMENT

(Rev. Fin. notes on p. 21 above)

The notes from p. 23 above may be read. The proposal of Rev. on p. 21 above may be accepted.

ADDITIONAL DEPUTY SECRETARY TO GOVERNMENT 29493 8 APR 1953 FINANCE DEPARTMENT

2/4/53

2.4.

Legal Opns

Legal (Opinions-A)Department.

As a simple proposition of law the Collector s view is correct. Government are not liable for misappropriation made by its servants in cases like this: But Government are bound to pay the petitioner the amount they have collected from the former head clerk. If the balance is also proposed to be paid ex-gratia this Department need not object. | A

9.5.53

9/5
J.5

SECRETARY TO ... 9979 11/5/53 ... DEPARTMENT

Home.
Legal Q.O. 7202/53-1
9/5/53

Home depth

Please see the note of Rev fin and Legal at pp 25-26 above. Sd/-

With reference to A above it is submitted that no amount was collected from the ex-head clerk towards the loss of jewels. ~~[illegible]~~ What was collected was in respect of misappropriation in another case viz C.C. No. 202/47 on the file of the A.C.M. Mangalore. the amount

of p46 of and 8 para 2, p37 of

A draft order is submitted for approval.

Sd/-
15/5/53

15/5/53

The draft may be approved. A separate memo may go to the petitioner directing him to approach the Coll: with proof that he is the rightful claimant, when the cost of the jewels will be paid to him | B

KBS
15/5/53

Yes
Sd/-
15/5/53

(Issued as G.O.Ms No 1624, Home, 9/11/31).

pp 48. 49 of

With reference to B on p2 Caute
a draft memo is submitted for approval. After
the papers may be closed with the A.G. at p68

24/5/53

24/5/53

25/5/53

(Issued as Memo No. 3419/48 IV/50
26.5.53) 19